

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

**GEORGE JOHNSON,**

Plaintiff

vs.

**DONALD P. WANG,**

Defendant

**No. 2:16-cv-01738 JLR**

**DEFENDANT WANG'S OPPOSITION  
THE PROPOSED AWARD OF  
ATTORNEY FEES**

“When it sets a fee, the district court must first determine the presumptive lodestar figure by multiplying the number of hours reasonably expended on the litigation by the reasonable hourly rate.” *Intel Corp. v. Terabyte Int’l, Inc.*, 6 F.3d 614, 622 (9th Cir. 1993). The reasonable hourly rate is determined with reference to the prevailing rates charged by attorneys of comparable skill and experience in the relevant community. *See Blum v. Stetson*, 465 U.S. 886, 895 (1984). In determining the reasonable number of hours expended on the litigation, the Court may exclude any excessive, redundant, or otherwise unnecessary hours billed. *Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983). The Court may also adjust the lodestar with reference to factors set forth in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975). The relevant Kerr factors here are: (1) the time and labor required; (2) the novelty and difficulty of the questions; and (3) the skill requisite to perform the legal services properly. “The lodestar amount presumably reflects the novelty and complexity of the issues, the special

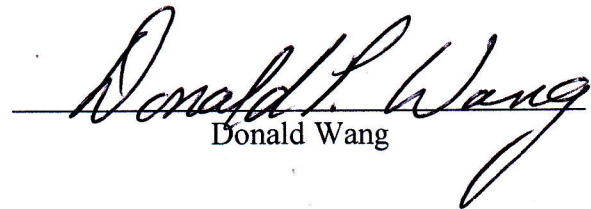
1  
2  
3  
4 skill and experience of counsel, the quality of representation, and the results obtained from the  
5 litigation.” *Intel*, 6 F.3d at 622.

6 As to the reasonableness of the hours requested, the plaintiff notes “[t]he party  
7 seeking fees bears the burden of documenting the hours expended in the litigation and must  
8 submit evidence supporting” the request. *Hensley*, 461 U.S. at 433. As noted above, the Court  
9 excludes those hours that are not reasonably expended because they are “excessive, redundant,  
10 or otherwise unnecessary.” *Hensley*, 461 U.S. at 434.. *Welch v. Metro. Life Ins. Co.*, 480 F.3d  
11 942, 948 (9th Cir. 2007).

12 Likewise, intra-office conferences between experienced counsel, absent persuasive  
13 justification by the moving party, may be excluded from an award as unnecessary and  
14 duplicative. *See Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 949.

15 The plaintiff contends that the number of hours billed is excessive. The plaintiff contends  
16 that the counsels' time entries show duplication of work, the use of too many attorneys. The  
17 burden of proof is on the defendant's counsel to establish their hourly rate and their affidavit  
18 makes no reference at all to the prevailing wages in the Western District of Washington.  
19 Opposing counsel has not made any effort to justify using two attorneys at trial, for a rather  
20 routine wage claim, involving an opponent that is pro se. Their declarations show numerous  
21 examples of both attorneys claiming time for reading routine documents, and for Merriam  
22 charging time for reviewing work of Lindquist without noting any changes that were made as a  
23 result of this review. While it may be possible in the Ninth Circuit to use declarations without  
24 attaching or using contemporaneous time records, the declarations must be "sufficiently detailed  
25 to enable the court to consider all the factors necessary in setting the fees." *Williams v. Alioto*,  
26 625 F.2d 845, 849 (9th Cir. 1980) (per curiam), cert. denied, 450 U.S. 1012, 68 L. Ed. 2d 213,  
27 101 S. Ct. 1723 (1981); Here, the plaintiff contends that the declarations of the two counsel are  
28 too vague to justify the hours expended or the duplication of work by the two counsels.

Dated this 8th day of October, 2018,

  
Donald Wang

Declaration of Donald Wang

Undersigned declares as follows:

In reviewing the hours submitted by John W. Merriam, I believe the following entries are duplicative or excessive given the fact that during the time period in question, Mr. Lindquist had taken over the case:

7-10-2018	Review Order on discovery motion	.1
7-10-2018	Review Order denying settlement conference	.1
7-11-2018	Review Order denying pretrial	.1
7-23-2018	Review Order regarding pretrial conference	.1
7-23-2018	Review Order to Show Cause	.1
7-24-2018	Review defendant's Pretrial Order	.2
7-24-2018	Review Wang's Response to Show Cause	.2
7-25-2018	Review Order on Show Cause	.1
7-30-2018	Draft and submit Stipulated Pretrial Order	.5
8-1-2018	Review defendant's opposition to sanctions	.2
8-2-2018	Draft Notice of possible witness intimidation	.2
8-2-2018	Review Order on Sanctions	.2
8-6-2018	Review defendant's trial brief	.2

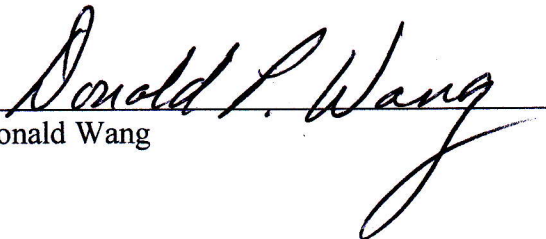


8-6-2018	Review Lindquist's brief without making edits	1.0
8-6-2018	Review plaintiff's proposed findings of fact	.2
8-6-2018	Review defendant's proposed findings of fact	.1
8-12 to 8-14-2018	Trial preparation	22 hours
8-20-2018	Review brief on damages without edits	.3
9-12-2018	Review Findings of Fact	1.0

The foregoing is based upon my limited experience as a pro se plaintiff, and in should in no way be considered complete, if the court uses its expertise to find more duplication.

I declare under the penalty of perjury of the State of Washington that the foregoing is true and correct

Dated this 9<sup>th</sup> day of October, 2018 at Seattle, WA,

  
Donald Wang